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Anaheim PD immigration policy

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Immigration Violations

428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

428.2 DEPARTMENT POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry.

When assisting ICE at its specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of 8 USC § 1304; 8 USC § 1324; 8 USC § 1325 and 8 USC § 1326, this department may assist in the enforcement of federal immigration laws.

428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be referred to the local office of the U.S. Immigration and Customs Enforcement (ICE). The Employer Sanction Unit of ICE has primary jurisdiction for enforcement of Title 8, United States Code.

428.3.1 BASIS FOR CONTACT

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest.

428.3.2 SWEEPS

The Anaheim Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, sexual orientation, religion, socioeconomic status or other group.

The disposition of each contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

428.3.3 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE or any other federal agency, this department will provide available support services, such as traffic control or peacekeeping efforts, during the federal operation.

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Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis or for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity.

428.3.4 IDENTIFICATION

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor or felony), the investigating officer should take reasonable steps to determine the person's identity through valid identification or other reliable sources.

If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be taken to the station and given a reasonable opportunity to verify his/her true identity (e.g., telephone calls). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.

428.3.5 ARREST

If the officer intends to take enforcement action and the individual is unable to reasonably establish his/her true identity, the officer may take the person into custody on the suspected criminal violation (see Vehicle Code § 40302a, and Penal Code § 836, if pertinent to the circumstances).

428.3.6 BOOKING

If the officer is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for bail.

A person detained exclusively pursuant to the authority of Vehicle Code § 40302(a) for any Vehicle Code infraction or misdemeanor shall not be detained beyond two hours for the purpose of establishing his/her true identity. Regardless of the status of that person's identity at the expiration of two hours, he/she shall be released on his/her signature with a promise to appear in court for the Vehicle Code infraction or misdemeanor involved.

428.3.7 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT (THIS SECTION SUPERCEDED BY SECTION 428.5)

428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE (THIS SECTION SUPERSEDED BY SECTION 428.5)

428.4.1 U-VISA/T-VISA NONIMMIGRANT STATUS

See Policy 611

428.5 IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER PROCESSING PURPOSE AND SCOPE

The purpose of this policy is to establish protocols for Anaheim Detention Facility personnel to follow when processing individuals identified as subject to U.S. Immigration and Customs Enforcement (ICE) federal detainees. The Anaheim Police Department is not charged with enforcing immigration laws; that responsibility and function lies with the federal government.

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Specifically, the U.S. Immigration and Customs Enforcement Agency (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry.

The Anaheim Police Department is charged, however, with delivering and providing police services to the residents, business owners and visitors to the City of Anaheim. The Department's effectiveness in carrying out that mission is impacted when members of the immigrant community, and/or their families and friends lose trust and confidence in their police department because of the perception that its officers are engaged in the enforcement of federal immigration laws. Some of these negative impacts include a disinclination to report crimes, provide information as witnesses and identify criminals as participants in the criminal justice system. Therefore, the Anaheim Police Department and its employees shall not normally undertake immigration investigations or inquire into the citizenship or immigration status of persons encountered during police contacts and / or operations. This does not prohibit Department employees from cooperating with federal immigration officials when requested, or from notifying those officials when a threat to public safety is reasonably perceived or known.

A person's right to receive and use police services is not contingent upon citizenship or immigration status. Therefore, Department personnel should not question victims, witnesses or arrested persons concerning their immigration status except when that status is relevant to the crime or incident being investigated. For example, the victim of certain violent crimes may qualify for a U-Visa or a T-Visa (see Policy 611); or during the investigation of a potential human smuggling or trafficking case, the immigration status of a victim or witness could be integral to the case at hand.

428.5.1 IMMIGRATION DETAINERS - PROCEDURE

Understanding that individuals booked into the Anaheim Detention Facility will be subject to automated immigration review as a matter of course via the Secure Communities program, APD Detention Facility staff will not honor Immigration detainers absent a warrant issued by a judicial officer or a judicial determination of probable cause.

428.6 INFORMATION SHARING

428.6.1 NOTICE TO INDIVIDUALS

Individuals shall be given a copy of documentation received from Immigration and Customs Enforcement (ICE) regarding a hold, notification or transfer request along with information as to whether the Anaheim Police Department intends to comply with the request (Government Code § 7283.1).

If the Anaheim Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

428.6.2 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Anaheim Police Department shall provide the individual with a written

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consent form that explains the purpose of the interview, that the interview is voluntary and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.